

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2021-030-00272R

Parcel No. 07-20-351-002

Molly Vincent,

Appellant,

vs.

Dickinson County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 13, 2022. Attorney Theodore Craig represented the Appellant. County Attorney Steven Goodlow represents the Board of Review.

Molly Vincent owns a residential property located at 1509 Lakeshore Drive, Okoboji, Iowa. Its January 1, 2021, assessment was set at \$1,117,400, allocated as \$935,000 in land value and \$182,400 in dwelling value. (Ex. A).

Vincent petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property in the taxing district and that the property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1)(a & b) (2021). (Ex. Q). The Board of Review denied the appeal. (Ex. R).

Vincent then appealed to PAAB reasserting her claim of over assessment. § 441.37(1)(a)(1)(b).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may

consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* "Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value." *Id.*

Findings of Fact

The subject property is a two-story home built in 1948. It has 2094 square feet of gross living area, an unfinished basement, two fireplaces, a deck, a patio, and a 576-square-foot detached garage. The improvements are listed in normal condition with good-quality construction (grade 3+00). The site is 0.172 acres. (Ex. A).

Vincent testified she acquired the property in August 2013 after the death of her mother. She explained the home had been owned by her family since the early 1970s. She testified the property is in similar condition to when it was originally purchased in the '70s with only normal repairs being made to the property. She reports repairs or replacement to the gutters, balcony, paint, and some plumbing. She described the subject as being located near the Okoboji Boat Works, an area with heavy traffic and

activity. Commercial activity is located across the street from her home and includes boat rentals, boat storage, and a restaurant and bar.

Vincent submitted photographs of her property and testified the subject has grading and water issues. She explained the front yard slopes from the street toward the dwelling and the rear yard is relatively flat. Photos show water standing in the courtyard during a heavy rain and water in the basement. She detailed how water stands in the courtyard area and then leaks into the basement. Additionally, the water issue is also causing erosion at the shoreline. Vincent has been working with the Iowa DNR to be able to make repairs. The cost of the work is expected to be approximately \$30,000.

Vincent also submitted photographs and described her kitchen as being original with old appliances.

Stacy Grover, IGL Corridor Appraisal, Spencer, Iowa, completed an appraisal on the subject property and testified in support of her appraisal. Grover developed the sales comparison approach, arriving at a value of \$955,000, as of January 1, 2021.¹ She concluded the cost and income approaches to value were not applicable to the assignment. She reported stable property values and explained she is very familiar with the area. She has been appraising in Okoboji for many years and often assists owners or real estate agents with the pricing of homes in the area.

Grover analyzed six sales in her sales comparison approach, which are summarized in the following table.

Address	Property Age	Gross Living Area (SF)	Lake Frontage	Sale Date	Sale Price	Adjusted Value
Subject	72	2094	50	NA	NA	NA
1 – 1603 Lake Shore Dr	130	2226	50	8/2020	\$970,000	\$950,800
2 – 1505 Givens St	150	2217	50	8/2020	\$1,035,000	\$969,500
3 – 2809 Lake Shore Dr	88	1272	47	9/2020	\$926,000	\$959,100
4 – 3009 Lake Shore Dr	111	1780	76	9/2019	\$955,000	\$905,300
5 – 3119 Lake Shore Dr	100	1747	50	4/2020	\$1,100,000	\$1,067,700
6 - 2514 Okoboji Blvd	99	1576	50	10/2019	\$883,375	\$932,475

¹ At hearing Grover acknowledged the report has a typographical error that states the effective date of her valuation is January 1, 2020.

Grover asserts the comparables are similar lakefront properties. Comparable 1 is located next door to the subject, and she has previously appraised it. Comparable 2 is located two doors away. It has an updated kitchen and living room, higher cost finishes, and an unfinished basement like the subject. Because of the proximity of these two properties she asserts they have very similar external factors. Additionally, she asserts they are the most similar to the subject property and gave them the greatest consideration.

Comparable 3 is located about a half mile north of the subject, and after including the finished area in the basement Grover noted it is similar in total finished area.

Grover testified Comparables 4, 5, and 6 were less similar to the subject. Comparable 4 had a much greater amount of lake frontage. Additionally, the property's dwelling was removed from the site shortly after the sale and a new dwelling was constructed. Grover explained she appraised the property for the realtor prior to the sale and asserts the dwelling was in similar condition to the subject. She admitted the new buyer may have considered the sale as a land sale, but testified she was unaware of any of the specifics of the redevelopment of the site. She explained the property was marketed as an improved property and at the hearing read the MLS listing that described the property. In her opinion, the sale price was reflective of the market value of the property as improved.

Comparable 5 had guest quarters; and, Comparable 6 was located on the south shore. She described the south shore location as inferior with lower site values.

The Board of Review submitted four sales it believes support the assessment. The sales are summarized in the following table. (Exs. B-E & G-J).

Address	Property Age	Gross Living Area (SF)	Lake Frontage	Sale Date	Sale Price	Adjusted Value
Subject	72	2094	50	NA	NA	NA
A – 1505 Givens St	151	1929	50	8/2020	\$1,035,000	\$1,097,500
B– 1705 Lakeshore Dr	66	2329	49.8	9/2020	\$1,442,000	\$1,355,200
C– 1603 Lake Shore Dr	131	2226	50	8/2020	\$970,000	\$966,200
D– 1607 Lake Shore Dr	91	2564	50	8/2020	\$1,425,000	\$1,317,600

The Board of Review asserts the four comparables it submitted are the most similar to the subject; proximate to the subject and with similar lake frontage. Comparable C is the same as Grover's Comparable 1. The Board of Review believes the comparables support the assessment. The Board of Review adjusted the comparables for differences to the subject property. However, the differences appear to be based only on the assessed value differences between particular elements/amenities of the property as compared to the subject's assessment for those same features. Thus, the adjustments appear to be based on cost and therefore may not accurately reflect market actions.

Analysis & Conclusions of Law

Vincent claimed that the subject property's assessment was for more than the value authorized by law. § 441.37(1)(a)(1)(b).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

In protest or appeal proceedings when the complainant offers competent evidence that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation. § 441.21(3)(b)(2) (2021). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782 (citations omitted).

In determining market value, "[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value." § 441.21(1) Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real property in Iowa. *Id.*; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2. "[A]bnormal transactions not reflecting market value shall not be taken into account, or

shall be adjusted to eliminate the effect of factors which distort market value” § 441.21(1)(b). Abnormal transactions include, but are not limited to, foreclosure or other forced sales, contract sales, discounted purchase transactions, or purchases of adjoining land or other land to be operated as a unit. *Id.*

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783 (emphasis added). If PAAB is not persuaded as to the comparability of the properties, then it “cannot consider the sales prices of those” properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Sale prices must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments.” *Id.* (other citations omitted).

Vincent submitted the Grover appraisal concluding an opinion of market value of \$955,000 for the subject property. The appraisal was developed with the sales comparison approach to value and complies with the statutory scheme. Grover testified on Vincent’s behalf and was knowledgeable of the market area. Her comparable sales were similar lake front properties and adjustments were made to them to account for differences compared to the subject. Based on the foregoing, we conclude Vincent has shifted the burden of proof to the Board of Review.

The Board of Review submitted four comparables asserting the sales were located closer to the subject and more similar in lake frontage. We note one of these comparables was also used by Grover in her appraisal, and one of the two on which she placed most reliance in her conclusions. The Board of Review’s adjustments were

made merely by calculating the difference in the assessed value of the comparable components/amenities as compared to the subject property. Given this fact, we question whether the cost adjustments are reasonably reflective of the contributory market value for the elements being compared. These sales indicate a range of value for the subject between \$966,200 and \$1,355,200. The Board of Review asserts these sales support subject's assessment. However, based on the evidence in the record, we conclude the Board of Review has failed to uphold its burden of proof.

We find Grover's appraisal to be the most persuasive evidence of the subject property's market value as of the assessment date. It is based on recent sales of similar lake front properties adjusted for differences to the subject property and we accordingly modify the assessment.

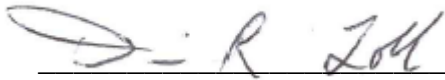
Order

PAAB HEREBY MODIFIES the Dickinson County Board of Review's action and orders the subject property's January 1, 2021, assessment be set at \$955,000.

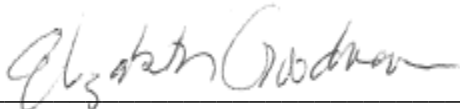
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

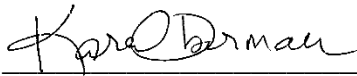
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

Copies to:

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